

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 223 of 2021

- Junaid Iraqi son of Kyamuddin Iraqi, aged about 35 years, resident of Nagar Panchayat, Kusmi, Ward No. 8, Masjid Para, Police Station-Kusmi, District Balrampur-Ramanujganj (C.G.)

---- Appellant

Versus

- State of Chhattisgarh Through : the Station House Officer, Police Station, Adim Jati Kalyan (AJK) Thana Balrampur, District Balrampur-Ramanujganj (C.G.)

---- State/Non-Applicant

For Appellant	: Shri Jitendra Shrivastava, Advocate
For Respondent/State	: Shri Dinesh Kumar Tiwari, Dy. Govt. Advocate
For Objector/Complainant	: Shri Sachin Nidhi, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J
Judgment on Board

25.02.2021

1. This appeal by the accused/appellant under Section 14(A) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 08.02.2021 passed by the Special Judge (Atrocities), Ramanujganj, District Balrampur-Ramanujganj (C.G.) in Bail Application No. 53/2021, refusing to allow his regular bail under Section 439 Cr.P.C. The appellant is in jail since 25.09.2020 in connection with Crime No. 02/2021 for the offence punishable under Sections 294, 506 & 376 of IPC and Sections 3 (1) (r) (s) & 3(2) (v-a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station-Adim Jati Kalyan (AJK) Thana Balrampur, District Balrampur-Ramanujganj (C.G.).
2. Prosecution case in brief is that the prosecutrix lodged a report at Adim Jati Kalyan Thana, Balrampur to the effect that in the year 2011 while she was

pursuing computer education, at that time she got acquainted with the appellant. In the month of December, 2012, the appellant committed sexual intercourse with the prosecutrix on the pretext of marriage and since then the appellant continuously committing sexual intercourse with her due to which, she became pregnant and gave birth to a baby girl in the month of March, 2017. On 05.01.2021, the prosecutrix along with her child went to the house of the appellant, where he refused to marry her. Therefore, offence was registered against the appellant under the aforementioned Sections of IPC & SC/ST Act.

3. Learned counsel for the appellant submits that the appellant has been falsely implicated in this case. He also submits that the appellant and the prosecutrix are major, having affair from 2012, they had performed love marriage on 24.12.2012 and were having physical relations with their free consent as a result of which one baby girl was born in the year 2017 prior to lodging of report against the appellant. He further submits that the appellant and the prosecutrix were living together from the year 2016 to 2020. He also submits that the appellant and the prosecutrix are still ready to live together. He submits that the appellant is in jail since 25.09.2020 and conclusion of the trial is likely to take some time. Therefore, the appellant be released on bail.
4. On the other hand, learned counsel for the State opposes the appeal.
5. Shri Sachin Nidhi, Advocate appearing on behalf of the complainant, submits that the prosecutrix wants to live together with the appellant, she has resolved the dispute outside the Court without any duress or protest and she has no objection to grant of bail to the appellant by this Court.
6. I have heard learned counsel for the parties.
7. Considering the facts and circumstances of the case, the fact that the prosecutrix and the appellant were having affair from the year 2012, they

were living together from the year 2016 to 2020 and are having one child, the prosecutrix has resolved the dispute outside the Court without any duress or protest, now the prosecutrix wants to live together with the appellant and she has no objection to grant of bail to the appellant by this Court as also the prosecutrix/complainant had filed an application raising no objection to grant of bail to the appellant before the trial Court which was duly supported by the affidavit, detention period of the appellant, conclusion of the trial is likely to take some time and there is no apprehension of the appellant tampering with the evidence or absconding, without expressing any opinion on the merits of the case, this Court is of the opinion that present is a fit case for grant of bail to the appellant. Accordingly, the appeal is allowed and the impugned order is set aside.

8. It is directed that in the event of appellant executing a personal bond for a sum of Rs.50,000/- with two sureties of Rs.25,000/- to the satisfaction of the concerned trial Court, he shall be released on bail on the following conditions:-

- i. he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court.
- ii. he shall not act in any manner which will be prejudicial to fair and expeditious trial.
- iii. he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.
- iv. he shall not involve himself in any offence of similar nature in future.

Sd/-
(Gautam Chourdiya)
Judge